

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1. DANNY J. PERKINS	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. <u>CIV-17-619-D</u>
	)	(Formerly Oklahoma County
	)	Case No. CJ-2017-2776)
1. ATLAS PAVING CO.,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant, Atlas Paving Co. (“Atlas”), hereby removes this action from the District Court of Oklahoma County, Oklahoma, where it was filed as Cause No. CJ-2017-2776, styled *Danny J. Perkins v. Atlas Paving Co.*, in the Judicial District Court of Oklahoma County, Oklahoma to the United States District Court for the Western District of Oklahoma. As the grounds for removal, Atlas states as follows:

1. Plaintiff filed his Petition in this matter on May 12, 2017 in the district court of Oklahoma County, Oklahoma, which is located within the Western District of Oklahoma. Plaintiff’s petition alleges claims for disability discrimination understate and federal law and alleges Defendant violated the Fair Labor Standards Act and the Protection of Labor Act.

2. Atlas was served with the Summons and Petition on May 15, 2017.

3. A copy of the state court docket sheet is attached hereto as Exhibit “1.” A copy of Plaintiff’s Petition is attached hereto as Exhibit “2.” A copy of the Summons is attached hereto as Exhibit “3.” Exhibits 2 and 3 constitute all of the documents filed in the state court matter.

4. This is a civil action over which this Court has subject matter jurisdiction under the provisions of 28 U.S.C. § 1331. Plaintiff asserts claims for an alleged violation of the Americans with Disabilities Act as Amended, 42 U.S. C. §12102 *et seq.* in Count I of his Petition. *See* Plaintiff’s Petition, Exhibit “2,” paragraphs 3, 25 and 27. Likewise, in Count II of his Petition, Plaintiff asserts claims for an alleged violation of the Fair Labor Standards Act, 29 U.S. C. §201 *et seq.* *See* Plaintiff’s Petition, Exhibit “2,” paragraphs 3 and 29. This claim arises under the laws of the United States and involves a federal question. Therefore, this Court has jurisdiction under 28 U.S.C. § 1331, and this action may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441.

5. This Notice of Removal is timely because it is filed within thirty (30) days from the date Atlas received a copy of the Petition. *See* 28 U.S.C. § 1446(b).

6. The Plaintiff is represented by Mark Hammons of the Hammons, Gowens & Hurst Law Firm, with offices located at 325 Dean A. McGee Avenue, Oklahoma City, Oklahoma, 73102.

7. As required by 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being filed this day with the Clerk of the District Court of Oklahoma County, Oklahoma.

WHEREFORE, Atlas Paving Co. requests that this Court assume jurisdiction over this controversy and that this matter proceed in the United States District Court for the Western District of Oklahoma from this day forward.

Respectfully submitted,

s/ Nathan L. Whatley

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of June, 2017, that a true, exact and correct copy of the foregoing document, was mailed by U.S. mail, to the following:

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**ATTORNEYS FOR PLAINTIFF**

s/Nathan L. Whatley

Nathan L. Whatley